European Commission targeted consultation on the functioning of the European Union securitization framework

February 2025

The Directorate-General for Financial Stability, Financial Services and Capital Markets Union (DG FISMA) of the European Commission (EC) published a consultation in October 2024, asking for stakeholders´ views regarding the adequacy of the securitization framework currently in place in the European Union (EU). The framework for the European securitisation market was established in 2019 with the main objective to create and develop a securitization market that provides funding to the economy, without impeding the financial stability. Securitisation is currently regarded as a medium to strengthen the Capital Markets Union (CMU) and to enhance the competitiveness of the EU. The 2024 targeted consultation of the EC on the functioning of the EU securitization framework focused *inter alia* on: (i) the effectiveness of the securitisation framework, (ii) scope of application of the Securitisation Regulation (SECR), (iii) due diligence requirements, (iv) transparency requirements and definition of public securitisation, (v) supervision, (vi) simple, transparent and standardized (STS) label, (vii) securitisation platform, (viii) prudential and liquidity treatment of securitisation for banks, (ix) prudential treatment of securitisation for insurers and (x) prudential framework for institutions for occupational retirement provision (IORPs) and other pension funds. The responses of the relevant stakeholders could provide direction for the EU securitisation framework, which is to be decided upon by the EC 2024-2029.

Pregunta

What is the scope of the EU securitisation framework?

Respuesta

Since 2019, the EU framework for the securitisation market has been in place. The regulatory framework includes the SECR[1] which lays down the requirements for *inter alia* risk management, due diligence and transparency for all EU securitisations. As the global financial crises (GFC) of 2008-2009 showed that some elements of the securitisation practice are particularly vulnerable, the 2019 framework introduced STS securitisations (simple, transparent and standardized). The STS label offers the possibility for investors to set STS securitisations aside from securitisation that are less transparent and more complex. In the aftermath of COVID-19,´on-balance-sheet synthetic securitisation´ were added to the STS category.

[1] Regulation - 2017/2402 - EN - securitisation regulation - EUR-Lex

Pregunta

Why did the EC launch a consultation on the functioning of the EU securitization framework?

Respuesta

When evaluating the volume of the securitisation market in Europe since the GFC, a decline from EUR 2trn in 2008-2009 to EUR 1.2tn in 2023 is visible. The numbers of the securitisation market on the other side of the Atlantic showed a different image; in the US the size grew from USD 11.3tn in 2008 to USD 13.7tn in 2021, hereby witnessing peaks higher than those recorded before the GFC. With the 2019 EU securitisation framework, the EU legislator intended to boost the EU securitisation market in a secure manner and strived to stimulate funding to the EU economy. In 2022, the EC evaluated the development of the European securitisation market and published a report on the functioning of the SECR[2]. Stakeholder feedback showed that securitisation did not generate a full potential for the economy in Europe. In March 2024, the Eurogroup issued a statement on the future of the CMU[3], where they asked the EC to make an assessment of the factors, both on the supply as demand side, that might

hinder a revitalization of the European securitisation market and asked the EC to reflect upon possible proposals for improvement. In the same month, the ECB Governing Council published a statement on CMU[4], reiterating the message of the Eurogroup. In the context of strengthening the CMU, the European Council called as well in April 2024 for revitalizing the securitisation market in Europe[5]. In a similar vein, the Draghi Report on the future of European competitiveness[6], published in September 2024, referred to the revival of securitisation.

[2] 'Report from the Commission to the European Parliament and the Council' on the functioning of the Securitisation Regulation CELEX:52022DC0517:EN:TXT.pdf

[3] Statement of the Eurogroup in inclusive format on the future of Capital Markets Union - Consilium (europa.eu)

[4] Statement by the ECB Governing Council on advancing the Capital Markets Union (europa.eu)

[5] Euco-conclusions-20240417-18-en.pdf (europa.eu)

[6] EU competitiveness: Looking ahead - European Commission (europa.eu)

Pregunta

On which issues did the European Commission focus in their targeted consultation on securitisation?

Respuesta

The *first Section* of the targeted consultation asked stakeholders to which extend they consider the framework to be successful in boosting the securitisation market in the EU and for deepening the CMU.

The *second Section* looked into the effect of securitisation and the availability of finance for Small and Medium Enterprises (SMEs).

The *third Section* focused on the legal clarity and appropriateness of the jurisdictional scope of the framework. It questioned the adequacy of the definitions of a ´securitisation´ and asked if alternative investment firm managers located in the EU should be seen as a ´sponsor´.

The *fourth Section* centered on the due diligence requirements. A comprehensive process for due diligence is perceived as crucial for investors, to inform them about financial products they prefer to acquire and the risks associated to it. Stakeholders questioned the proportionality of the due diligence requirements of the 2019 framework. In the consultation, the EC asked stakeholders to indicate whether due diligence requirements should be ´more principle-based, proportionate and less complex´ or more granular and prescriptive. Additionally, the EC asked whether the due diligence requirements should be linked to particular characteristics of the securitisations. Moreover, the EC put forward the question whether the obligation for investors to verify if the originator, sponsor or lender in a securitisation transaction meet the requirements for risk retention, credit granting, disclosure and STS, could be removed in the situation where the investor is from the EU and invests in a securitisation transaction where the originator, sponsor or original lender is as well based in the EU. The reason for this possible withdrawal of obligation is that supervisors already check whether these due diligence requirements are met.

The *fifth Section* centered on the transparency regime, which tries to secure that investors have access to the appropriate information to assess the due diligence, and national competent authorities (NCAs) have the right information at their disposal to adequately supervise the entities participating in the securitisation market. The consultation analyzes the definition of ´public´ versus ´private´ securitisations, as the former currently only captures a subset of what the market would consider as public securitisations from an economic perspective, and the latter should only focus on truly bespoke transactions. Additionally, the EC invited stakeholders to share their view regarding the granularity of (prescribed) disclosure templates for public and private securitisation. The EC mainly proposed in this context two options: (i) updating the template for public securitization, for efficiency purposes, and establishing a simplified template for private securitization as well as requiring private securitisations to report to securitisation repositories (this reporting will not be made public) and (ii) eliminating the definition of ´public´ versus ´private´ securitisations, establishing a principle-based disclosure for investors without a prescribed template and setting in place a simplified prescriptive template with a reduced number of fields for NCAs that will replace the current template.

The *sixth Section* laid the accent on the supervision of securitisation. A suggestion of the EC to advance the supervision structure of securitization is the establishment of a supervisory hub, bearing resemblances with the model of the SSM securitisation hub. In case a securitisation involves multiple jurisdictions, the EC proposes, as an alternative option, appointing one NCA as a lead coordinator under the joint oversight of the European Supervisory Authorities.

The *seventh Section* assessed the effectiveness and scope of the STS label.

The *eighth Section* explored the need, functioning and goals of a possible EU-wide securitisation platform as a way to make securitisation more appealing, and to stimulate the EU securitisation market.

The *nineth Section* focuses on the provisions for banks regarding the prudential and liquidity dimension of the securitisation process.

In the *tenth* and *eleventh Sections*, the EC aimed to gain a better understanding of the approach taken by insurers, and for IORPS and non-IORPS, towards investments in securitisations.

The *final Section* of the consultation offered stakeholders the opportunity to share (strategic) views regarding the challenges and potential of the EU securitisation market, the regulatory measures and the contribution to the CMU objectives.

Links of interest: Commission consults on EU securitisation rules - European Commission (europa.eu) Targeted consultation on the functioning of the EU securitisation framework 2024 - European Commission (europa.eu) Securitisation - European Commission (europa.eu)